

of trade, it may award punitive damages to the defendant.

**(d) Award of costs to defendant**

Any defendant against whom a civil action is brought under the provisions of sections 294 to 300 of this title shall be entitled to recover the cost of defending the suit, including a reasonable attorney's fee, in the event such action is terminated without a finding by the court that such defendant is or has been in violation of sections 294 to 300 of this title.

**(e) Jurisdiction of civil actions**

The district courts shall have exclusive original jurisdiction of any civil action arising under the provisions of sections 294 to 300 of this title.

(June 13, 1906, ch. 3289, §5, 34 Stat. 262; Pub. L. 91-366, §1(a), (b), July 31, 1970, 84 Stat. 690.)

AMENDMENTS

1970—Pub. L. 91-366 designated existing provisions as subsec. (a) and added subsecs. (b) to (e).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-366 effective three months after July 31, 1970, see section 4 of Pub. L. 91-366, set out as a note under section 297 of this title.

SEPARABILITY

For separability provision of Pub. L. 91-366, see section 2 of Pub. L. 91-366, set out as a note under section 297 of this title.

CONSTRUCTION OF 1970 AMENDMENT

Amendment by Pub. L. 91-366 to be held to be in addition to and not in substitution for or limitation of the provisions of any other Act of the United States, see section 3 of Pub. L. 91-366, set out as a note under section 297 of this title.

**§ 299. Definitions**

(a) The expression "article of merchandise" as used in sections 294 to 300 of this title shall signify any goods, wares, works of art, commodity, or other thing which may be lawfully kept or offered for sale.

(b) The term "person" means an individual, partnership, corporation, or any other form of business enterprise, capable of being in violation of sections 294 to 300 of this title.

(c) The term "jewelry trade association" means an organization, consisting primarily of persons actively engaged in the jewelry or a related business, the purposes and activities of which are primarily directed to the improvement of business conditions in the jewelry or related businesses.

(June 13, 1906, ch. 3289, §6, 34 Stat. 262; Pub. L. 91-366, §1(c), (d), July 31, 1970, 84 Stat. 690.)

AMENDMENTS

1970—Pub. L. 91-366 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1970 AMENDMENTS

Amendment by Pub. L. 91-366 effective three months after July 31, 1970, see section 4 of Pub. L. 91-366, set out as a note under section 297 of this title.

SEPARABILITY

For separability provision of Pub. L. 91-366, see section 2 of Pub. L. 91-366, set out as a note under section 297 of this title.

CONSTRUCTION OF 1970 AMENDMENT

Amendment by Pub. L. 91-366 to be held to be in addition to and not in substitution for or limitation of the provisions of any other Act of the United States, see section 3 of Pub. L. 91-366, set out as a note under section 297 of this title.

**§ 300. Application of State laws**

All articles of merchandise to which sections 294 to 300 of this title apply which shall have been transported into any State, Territory, District, or possession of the United States, and shall remain therein for use, sale, or storage, shall, upon arrival in such State, Territory, District, or possession, be subject to the operation of all the laws of such State, Territory, District, or possession of the United States to the same extent and in the same manner as though such articles of merchandise had been produced in such State, Territory, District, or possession, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

(June 13, 1906, ch. 3289, §7, 34 Stat. 262.)

**CHAPTER 9—NATIONAL WEATHER SERVICE**

Sec.

- |             |  |
|-------------|--|
| 311.        | Omitted.   |
| 312.        | Employees.   |
| 313.        | Duties of Secretary of Commerce.   |
| 313a.       | Establishment of meteorological observation stations in the Arctic region.   |
| 313b.       | Institute for Aviation Weather Prediction.   |
| 313c.       | Authorized activities of the National Oceanic and Atmospheric Administration.  |
| 314.        | Omitted.   |
| 315.        | Changes or assignment to duty.   |
| 316.        | Omitted.   |
| 317.        | Appropriations and estimates.  |
| 318.        | Weather signals on mail cars.  |
| 319 to 321. | Omitted or Repealed.   |
| 322.        | Odd jobs for part-time employees.  |
| 323, 324.   | Repealed or Omitted.   |
| 325.        | Authority for certain functions and activities.  |
| 326.        | Maintenance of printing office in Washington, D.C.   |
| 327.        | Employees for conduct of meteorological investigations in Arctic region; appointment and compensation; extra compensation to other Government employees for taking observations. |
| 328.        | Transfer from other Government Departments of surplus equipment and supplies for Arctic stations.  |
| 329.        | Omitted.   |

**§ 311. Omitted**

CODIFICATION

Section, act Oct. 1, 1890, ch. 1266, §1, 26 Stat. 653, as amended, relating to the establishment of a Weather Bureau in the Department of Commerce, was omitted because the Weather Bureau was consolidated with the Coast and Geodetic Survey to form a new agency in the Department to be known as the Environmental Science Services Administration, and the office of Chief of the Weather Bureau was abolished, by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note below. The Reorg. Plan also transferred to the Secretary of Commerce all functions of the Bureau and the Chief of the Bureau.

Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out as a note under section 1511 of this title, abolished the Environmental Science

Services Administration, including the offices of Administrator and Deputy Administrator, and established the National Oceanic and Atmospheric Administration within the Department of Commerce. By Department Organization Order 25-5A, republished 39 F.R. 27486, July 29, 1974, the Secretary of Commerce delegated to the National Oceanic and Atmospheric Administration a number of functions vested in him, including his functions under this chapter of the Code. By order of the Acting Associate Administrator, 35 F.R. 19249, Dec. 19, 1970, the following organizational names appearing in chapter IX of subtitle B of Title 15, Code of Federal Regulations, relating to the Administration, were changed: Environmental Science Services Administration to National Oceanic and Atmospheric Administration (ESSA to NOAA); Coast and Geodetic Survey to National Ocean Survey, and Weather Bureau to National Weather Service.

Prior to Oct. 1, 1890, the functions of the Weather Bureau were exercised by the Signal Corps of the Army. Act October 1, 1890, created the present Bureau in the Department of Agriculture. By Reorg. Plan No. IV of 1940, § 8, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1236, the Bureau and its functions were transferred to the Department of Commerce, "Provided, That the Department of Agriculture may continue to make snow surveys and to conduct research concerning: (a) relationships between weather and crops, (b) long-range weather forecasting, and (c) relationships between weather and soil erosion."

#### SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107-253, § 1, Oct. 29, 2002, 116 Stat. 1731, provided that: "This Act [enacting section 313c of this title and provisions set out as notes under section 313c of this title] may be cited as the 'Inland Flood Forecasting and Warning System Act of 2002'."

#### WEATHER MODIFICATION PROGRAM

Act Aug. 13, 1953, ch. 426, 67 Stat. 559, as amended by act July 9, 1956, ch. 522, 70 Stat. 509, related to research and experimentation in the field of weather modification and created the Advisory Committee on Weather Control. Pub. L. 85-170, ch. II, § 201, Aug. 28, 1957, 71 Stat. 427, provided in part that the Advisory Committee on Weather Control shall complete its report and terminate its activities by Dec. 31, 1957.

#### REORGANIZATION PLAN NO. 2 OF 1965

Eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, as amended Pub. L. 90-83, § 10(c), Sept. 11, 1967, 81 Stat. 224

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 13, 1965, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see 5 U.S.C. 901 et seq.].

#### ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION, DEPARTMENT OF COMMERCE

##### SECTION 1. TRANSFER OF FUNCTIONS

All functions vested by law in the Weather Bureau, the Chief of the Weather Bureau, the Coast and Geodetic Survey, the Director of the Coast and Geodetic Survey, and any officer, employee, or organizational entity of that Bureau or Survey, and not heretofore transferred to the Secretary of Commerce, hereinafter referred to as the Secretary, are hereby transferred to the Secretary.

##### SEC. 2. ABOLITIONS

(a) The offices of Director of the Coast and Geodetic Survey, Deputy Director of the Coast and Geodetic Survey, and Chief of the Weather Bureau are hereby abolished. The Secretary shall make such provisions as he shall deem to be necessary respecting the winding up of any outstanding affairs of the officers whose offices are abolished by the provisions of this section.

(b) The abolitions effected by the provision of subsection (a) of this section shall exclude the abolition of rights to which the present incumbents of the abolished offices would be entitled under law upon the termination of their appointments.

#### SEC. 3. ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

(a) The Coast and Geodetic Survey and the Weather Bureau are hereby consolidated to form a new agency in the Department of Commerce which shall be known as the Environmental Science Services Administration, hereinafter referred to as the Administration.

(b) The Secretary shall from time to time establish such constituent organizational entities of the Administration, with such names, as he shall determine.

#### SEC. 4. OFFICERS OF THE ADMINISTRATION

(a) There shall be at the head of the Administration the Administrator of the Environmental Science Services Administration, hereinafter referred to as the Administrator. The Administrator shall be appointed by the President by and with the advice and consent of the Senate. He shall perform such functions as the Secretary may from time to time direct.

(b)(1) There shall be in the Administration a Deputy Administrator of the Environmental Science Services Administration, hereinafter referred to as the Deputy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may from time to time direct, and, unless he is compensated in pursuance of the provisions of paragraph (2), below, shall receive compensation in accordance with the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5].

(2) The office of Deputy Administrator may be filled at the discretion of the President by appointment (by and with the advice and consent of the Senate) from the active list of commissioned officers of the Administration in which case the appointment shall create a vacancy on the active list and while holding the office of Deputy Administrator the officer shall have rank, pay and allowances not exceeding those of a Vice Admiral.

(c) The Deputy Administrator or such other official of the Department of Commerce as the Secretary shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) At any one time, one principal constituent organizational entity of the Administration may, if the Secretary so elects, be headed by a commissioned officer of the Administration, who shall be designated by the Secretary. Such designation of an officer shall create a vacancy on the active list and while serving under this paragraph the officer shall have rank, pay and allowances not exceeding those of a Rear Admiral (upper half).

(e) Any commissioned officer of the Administration who has served as Deputy Administrator or has served in a rank above that of Captain as the head of a principal constituent organizational entity of the Administration, and is retired while so serving or is retired after the completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay and allowances authorized by law for the highest grade and rank held by him; but any such officer, upon termination of his appointment in a rank above that of Captain shall, unless appointed or assigned to some other position for which a higher rank or grade is provided, revert to the grade and number he would have occupied had he not served in a rank above that of Captain and such officer shall be an extra number in that grade. [As amended Pub. L. 90-83 § 10(c), Sept. 11, 1967, 81 Stat. 224.]

#### SEC. 5. AUTHORITY OF THE SECRETARY

Nothing in this reorganization plan shall divest the Secretary of any function vested in him by law or by

Reorganization Plan No. 5 of 1950 (64 Stat. 1263) or in any manner derogate from any authority of the Secretary thereunder.

#### SEC. 6. PERSONNEL, PROPERTY, RECORDS AND FUNDS

(a) The personnel (including commissioned officers) employed in the Coast and Geodetic Survey, the personnel employed in the Weather Bureau, and the property and records held or used by the Weather Bureau or the Coast and Geodetic Survey shall be deemed to be transferred to the Administration.

(b) Unexpended balances of appropriations, allocations, and other funds available or to be made available in connection with functions now administered by the Weather Bureau or by the Coast and Geodetic Survey shall be available to the Administration hereunder in connection with those functions.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the foregoing provisions of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

#### SEC. 7. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provision of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

#### MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1965, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended, and providing for the reorganization of two major agencies of the Department of Commerce: The Weather Bureau and the Coast and Geodetic Survey.

The reorganization plan consolidates the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration. It is the intention of the Secretary of Commerce to transfer the Central Radio Propagation Laboratory of the National Bureau of Standards to the Administration when the reorganization plan takes effect. The new Administration will then provide a single national focus for our efforts to describe, understand, and predict the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth.

Establishment of the Administration will mark a significant step forward in the continual search by the Federal Government for better ways to meet the needs of the Nation for environmental science services. The organizational improvements made possible by the reorganization plan will enhance our ability to develop an adequate warning system for the severe hazards of nature—for hurricanes, tornadoes, floods, earthquakes, and seismic sea waves, which have proved so disastrous to the Nation in recent years. These improvements will permit us to provide better environmental information to vital segments of the Nation's economy—to agriculture, transportation, communications, and industry, which continually require information about the physical environment. They will mean better services to other Federal departments and agencies—to those that are concerned with the national defense, the explo-

ration of outer space, the management of our mineral and water resources, the protection of the public health against environmental pollution, and the preservation of our wilderness and recreation areas.

The new Administration will bring together a number of allied scientific disciplines that are concerned with the physical environment. This integration will better enable us to look at man's physical environment as a scientific whole and to seek to understand the interactions among air, sea, and earth and between the upper and lower atmosphere. It will facilitate the development of programs dealing with the physical environment and will permit better management of these programs. It will enhance our capability to identify and solve important long-range scientific and technological problems associated with the physical environment. The new Administration will, in consequence, promote a fresh sense of scientific dedication, discovery, and challenge, which are essential if we are to attract scientists and engineers of creativity and talent to Federal employment in this field.

The reorganization plan provides for an Administrator at the head of the Administration, and for a Deputy Administrator, each of whom will be appointed by the President by and with the advice and consent of the Senate. As authorized by the civil service and other laws and regulations, subordinate officers of the Administration will be appointed by the Secretary of Commerce or be assigned by him from among a corps of commissioned officers. The Administration will perform such functions as the Secretary of Commerce may delegate or otherwise assign to it and will be under his direction and control.

Commissioned officers of the Coast and Geodetic Survey will become commissioned officers of the Administration and may serve at the discretion of the Secretary of Commerce throughout the Administration. The reorganization plan authorizes the President at his discretion to fill the Office of Deputy Administrator by appointment, by and with the advice and consent of the Senate, from the active list of commissioned officers of the Administration.

The reorganization plan transmitted herewith abolishes—and thus excludes from the consolidation mentioned above—the offices of (1) Chief of the Weather Bureau, provided for in the act of October 1, 1890 (15 U.S.C. 312); (2) Director of the Coast and Geodetic Survey, provided for in the acts of June 4, 1920, and February 16, 1929, as amended (33 U.S.C. 852, 852a); and (3) Deputy Director of the Coast and Geodetic Survey, provided for in the act of January 19, 1942, as amended (33 U.S.C. 852b).

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1965 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that by reason of the reorganizations made by the reorganization plan, it is necessary to include in the plan provisions for the appointment and compensation of the officers of the Administration set forth in section 4 of the reorganization plan. The rate of compensation fixed for each of these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

In addition to permitting more effective management within the Department of Commerce, the new organization will ultimately produce economies. These economies will be of two types. The first, and probably the most significant, is the savings and avoidance of costs which will result from the sharing of complex and expensive facilities such as satellites, computers, communication systems, aircraft, and ships. These economies will increase in significance as developments in science and technology bring into being still more advanced equipment. Second, integration of the existing headquarters and field organizations will permit more efficient utilization of existing administrative staffs and thereby produce future economies. It is, however, im-

practicable to specify or itemize at this time the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations included in the reorganization plan.

I recommend that the Congress allow the accompanying reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, May 13, 1965.

### § 312. Employees

The National Weather Service shall consist of such civilian employees as Congress may annually provide for and as may be necessary to properly perform the duties devolving on said Service by law.

(Oct. 1, 1890, ch. 1266, § 4, 26 Stat. 653; July 8, 1898, No. 57, 30 Stat. 752; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090.)

#### REPEALS

Joint Res. July 8, 1898, provided: "That the laws authorizing the detail and assignment of the officers of the Army to duty in the Weather Bureau be, and are hereby, repealed."

#### TRANSFER OF FUNCTIONS

Office of Chief of Weather Bureau abolished and Weather Bureau consolidated with Coast and Geodetic Survey to form new agency in Department of Commerce known as Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out as a note under section 311 of this title. The Reorg. Plan also transferred to Secretary of Commerce functions of Bureau and Chief of Bureau. Subsequently, Environmental Science Services Administration abolished and National Oceanic and Atmospheric Administration established. By Department Organization Order 25-5A, Secretary delegated to NOAA his functions under this chapter of the Code. By order of Acting Associate Administrator of NOAA, organizational name of Weather Bureau changed to National Weather Service. For further details, see Codification note set out under section 311 of this title.

### § 313. Duties of Secretary of Commerce

The Secretary of Commerce shall have charge of the forecasting of weather, the issue of storm warnings, the display of weather and flood signals for the benefit of agriculture, commerce, and navigation, the gauging and reporting of rivers, the maintenance and operation of sea-coast telegraph lines and the collection and transmission of marine intelligence for the benefit of commerce and navigation, the reporting of temperature and rain-fall conditions for the cotton interests, the display of frost and cold-wave signals, the distribution of meteorological information in the interests of agriculture and commerce, and the taking of such meteorological observations as may be necessary to establish and record the climatic conditions of the United States, or as are essential for the proper execution of the foregoing duties.

(Oct. 1, 1890, ch. 1266, § 3, 26 Stat. 653; May 20, 1926, ch. 344, § 5 (e), 44 Stat. 571; June 23, 1938, ch. 601, title XI, § 1107(k), 52 Stat. 1029; 1940 Reorg. Plan No. IV, § 8, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1236; 1965 Reorg. Plan No. 2, §§ 1, 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318.)

#### AMENDMENTS

1938—Act June 23, 1938, repealed second paragraph relating to duties as to air navigation.

1926—Act May 20, 1926, inserted second paragraph relating to duties as to air navigation.

#### REPEALS

Pub. L. 85-726, title XIV, § 1401(b), Aug. 23, 1958, 72 Stat. 806, repealed act June 23, 1938, ch. 601, title XI, § 1107(k), 52 Stat. 1029, cited to the credit of this section.

#### TRANSFER OF FUNCTIONS

Office of Chief of Weather Bureau abolished and functions transferred to Secretary of Commerce by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318. Reorg. Plan No. IV of 1940 transferred Weather Bureau from Department of Agriculture to Department of Commerce. For further details, see notes set out under section 311 of this title.

#### USE OF FUNDS FOR HURRICANE RECONNAISSANCE PROGRAM

Pub. L. 108-199, div. B, title II, § 203, Jan. 23, 2004, 118 Stat. 72, provided in part that: "Hereafter, none of the funds made available by this or any other Act for the National Oceanic and Atmospheric Administration may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108-7, div. B, title II, § 203, Feb. 20, 2003, 117 Stat. 77.

Pub. L. 107-77, title II, § 203, Nov. 28, 2001, 115 Stat. 778.

Pub. L. 106-553, § 1(a)(2) [title II, § 203], Dec. 21, 2000, 114 Stat. 2762, 2762A-78.

Pub. L. 106-113, div. B, § 1000(a)(1) [title II, § 203], Nov. 29, 1999, 113 Stat. 1535, 1501A-31.

Pub. L. 105-277, div. A, § 101(b) [title II, § 203], Oct. 21, 1998, 112 Stat. 2681-50, 2681-86.

Pub. L. 105-119, title II, § 203, Nov. 26, 1997, 111 Stat. 2479.

Pub. L. 104-208, div. A, title I, § 101(a) [title II, § 203], Sept. 30, 1996, 110 Stat. 3009, 3009-39.

Pub. L. 104-134, title I, § 101(a) [title II, § 203], Apr. 26, 1996, 110 Stat. 1321, 1321-30; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103-317, title II, § 203, Aug. 26, 1994, 108 Stat. 1749.

Pub. L. 103-121, title II, § 203, Oct. 27, 1993, 107 Stat. 1176.

Pub. L. 102-395, title II, § 203, Oct. 6, 1992, 106 Stat. 1855.

Pub. L. 102-140, title II, § 203, Oct. 28, 1991, 105 Stat. 806.

Pub. L. 101-515, title I, § 103, Nov. 5, 1990, 104 Stat. 2107.

#### HURRICANE RECONNAISSANCE PROGRAM

Pub. L. 102-567, title I, § 107, Oct. 29, 1992, 106 Stat. 4275, provided that:

"(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary of Defense and the Secretary of Commerce shall establish a 5-year joint program for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of tropical cyclones.

"(2) The Secretary of Commerce shall establish the Tropical Cyclone Research Advisory Committee, an advisory committee of tropical cyclone research scientists, to make recommendations for tropical cyclone research activities and reconnaissance procedures.

"(b) RESPONSIBILITIES.—(1) The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to